

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE APPLICATION OF</b>	)	
<b>UNITED ELECTRIC CO-OP, INC. AND SOUTH</b>	)	<b>CASE NO. GNR-E-03-10</b>
<b>SIDE ELECTRIC, INC. FOR AN ORDER</b>	)	
<b>APPROVING A SERVICE TERRITORY</b>	)	<b>NOTICE OF APPLICATION</b>
<b>AGREEMENT PURSUANT TO <i>IDAHO CODE</i></b>	)	
<b>§ 61-333(1).</b>	)	<b>NOTICE OF MODIFIED</b>
	)	<b>PROCEDURE</b>
	)	
	)	<b>ORDER NO. 29288</b>
	)	

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On June 20, 2003, United Electric Co-op, Inc. and South Side Electric, Inc. filed an Application for approval of their Service Territory Agreement pursuant to the Idaho Electric Supplier Stabilization Act (ESSA). United is the successor entity following the consolidation of Rural Electric Company and Unity Light & Power. United and South Side are both electric non-profit corporations organized under the laws of Idaho. United and South Side are defined as “electric supplier[s]” under the ESSA. *Idaho Code* § 61-332A(2,4).

**NOTICE OF APPLICATION**

United and South Side supply electric service to their respective consumers in adjacent and contiguous service territories. Prior to the 2000 amendments of the ESSA, the parties had “an oral understanding relative to the respective service areas” of each electric supplier. Exhibit No. 1, ¶ 1.3. On May 30, 2003, they entered into a “Service Area Stabilization Agreement” thereby reducing their respective understandings to writing. The Agreement establishes separate service territories for each party. Each party is responsible for serving all new customers in their defined service areas. *Id.* at ¶ 2. To the extent that either party is currently providing service to consumers within the service area assigned to the other party, the existing supplier shall continue to serve these pre-existing customers. *Id.* at ¶ 3; Exhibit No. 2.

The Agreement also states that there may be instances where it is more efficient for a new customer located in one service territory to be served by the other electric supplier. In such cases, the parties may execute

a written agreement to permit the service of a new customer by [the] party  
whose distribution system is located in the service area of the other

[supplier], if the new customer can be served more efficiently and safely from the existing service lines of the non-service area party or by the extension of existing service lines of the non-service party. Such agreement shall be in writing, authorized by the respective governing board of each party, and when executed shall be appended to this Agreement. The entering into such agreement is discretionary with either party and neither party shall have the right of action against the other for its exercise of such discretion.

*Id.* at ¶ 6.

The Application states that the Agreement was negotiated to settle and establish service territories between the parties, to provide stability and safety in service to consumers, and to eliminate duplication of services. Application at ¶ 3. Because their oral agreements predate the 2000 amendments to the ESSA, the parties now request that the Commission approve their Service Area Stabilization Agreement.

### **THE ESSA**

The purpose of the ESSA is to promote harmony among and between electric suppliers furnishing electricity within Idaho. More specifically, the ESSA: (1) prohibits the “pirating” of consumers already served by another supplier; (2) discourages duplication of electric facilities; (3) actively supervises certain conduct of electric suppliers; and (4) stabilizes the territories and consumers served by such electric suppliers. *Idaho Code* § 61-332. Under the ESSA, all agreements or contracts for the allocation of service territories or consumers shall be filed with the Commission. *Idaho Code* § 61-333(1).

*Idaho Code* § 61-333(1) provides that any electric supplier may contract with any other electric supplier for the purpose of “allocating territories, consumers, and future consumers ... and designating which territories and consumers are to be served by which contracting electric supplier.” This section further provides that the Commission may, after notice and opportunity for hearing, “approve or reject contracts between cooperatives....” The Commission “shall approve such contracts only upon finding that the allocation of territories or consumers is in conformance with the provisions and purposes of” the ESSA. *Id.*; 61-334B.

### **NOTICE OF MODIFIED PROCEDURE**

YOU ARE HEREBY NOTIFIED that *Idaho Code* § 61-333(1) requires electric suppliers to file all contracts that allocate service territories, consumers, or future consumers with

the Commission. This section further provides that the Commission shall approve all such contracts if they are in conformance with the provisions and purposes of the ESSA. *See also Idaho Code* § 61-334B.

YOU ARE FURTHER NOTIFIED that the Commission has determined that the public interest may not require a formal hearing in this matter and will proceed under Modified Procedure pursuant to Rules 201 through 204 of the Idaho Public Utilities Commission's Rules of Procedure, IDAPA 31.01.01.201 through -204.

YOU ARE FURTHER NOTIFIED that any person desiring to state a position on this Application may file a written comment in support or opposition with the Commission within twenty-one (21) days from the service date of this Order. The comment must contain a statement of reasons supporting the comment. Persons desiring a hearing must specifically request a hearing in their written comments. Written comments concerning this Application shall be mailed to the Commission and the Applicants at the addresses reflected below:

COMMISSION SECRETARY  
IDAHO PUBLIC UTILITIES COMMISSION  
PO BOX 83720  
BOISE, IDAHO 83720-0074

Street Address for Express Mail:

472 W WASHINGTON ST  
BOISE, ID 83702-5983

WILLIAM A. PARSONS  
PARSONS, SMITH & STONE, LLP  
PO BOX 910  
BURLEY, ID 83318  
[wparsons@pmt.org](mailto:wparsons@pmt.org)

Attorney for United Electric Co-op

KENT FLETCHER  
FLETCHER LAW OFFICE  
PO BOX 248  
BURLEY, ID 83318

[wkf@pmt.org](mailto:wkf@pmt.org)

Attorney for South Side Electric

Comments pertaining to this application should contain the case caption and case number shown on the first page of this document.

Persons desiring to submit comments via e-mail may do so by accessing the Commission's home page located at [www.puc.state.id.us](http://www.puc.state.id.us). Click the "Comments and Questions" icon, and complete the comment form, using the case number as it appears on the front of this document. These comments must also be sent to the Applicants at the e-mail addresses listed above.

YOU ARE FURTHER NOTIFIED that the Application in Case No. GNR-E-03-10 can be reviewed at the Commission's office and at the Commission's web site [www.puc.state.id.us](http://www.puc.state.id.us) under the "File Room" icon.


YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code and specifically *Idaho Code* §§ 61-332, 61-333(1), and 61-334B.

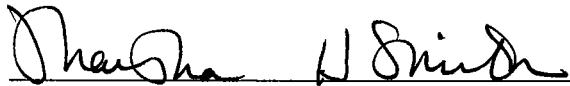
YOU ARE FURTHER NOTIFIED that all proceedings in this case will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

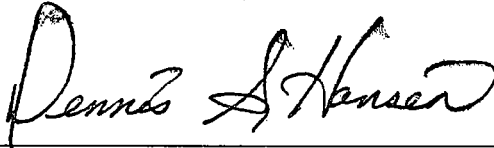
**ORDER**

IT IS HEREBY ORDERED that this Application be processed under Modified Procedure. Persons interested in submitting written comments regarding this Application should do so within 21 days of the service date of this Order.

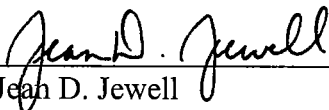
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 8<sup>th</sup> day of July 2003.

  
PAUL KJELLANDER, PRESIDENT

  
MARSHA H. SMITH, COMMISSIONER

  
DENNIS S. HANSEN, COMMISSIONER

ATTEST:

  
Jean D. Jewell  
Commission Secretary

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